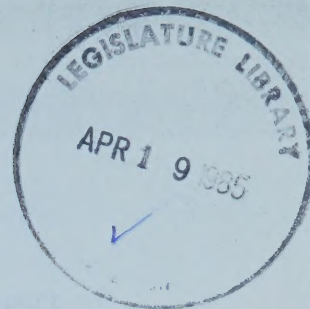


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FIRST ANNUAL REPORT

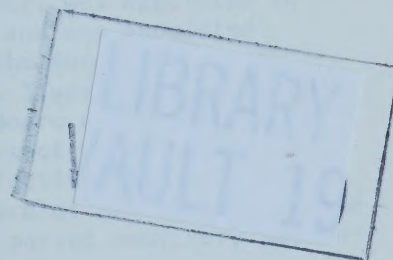
of the

SURFACE RIGHTS BOARD

appointed under

THE SURFACE RIGHTS ACT

for the year 1972



JOHN D. McARTHUR

Chairman

Members in Edmonton

K. J. SPREAD

C. H. NIELSEN

Members in Calgary

L. P. POLLARD

S. C. TIPPETT

A. W. BENEDIX

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Honourable Dr. Hugh M. Horner,
Deputy Premier and Minister of Agriculture,
Edmonton, Alberta.

Sir:

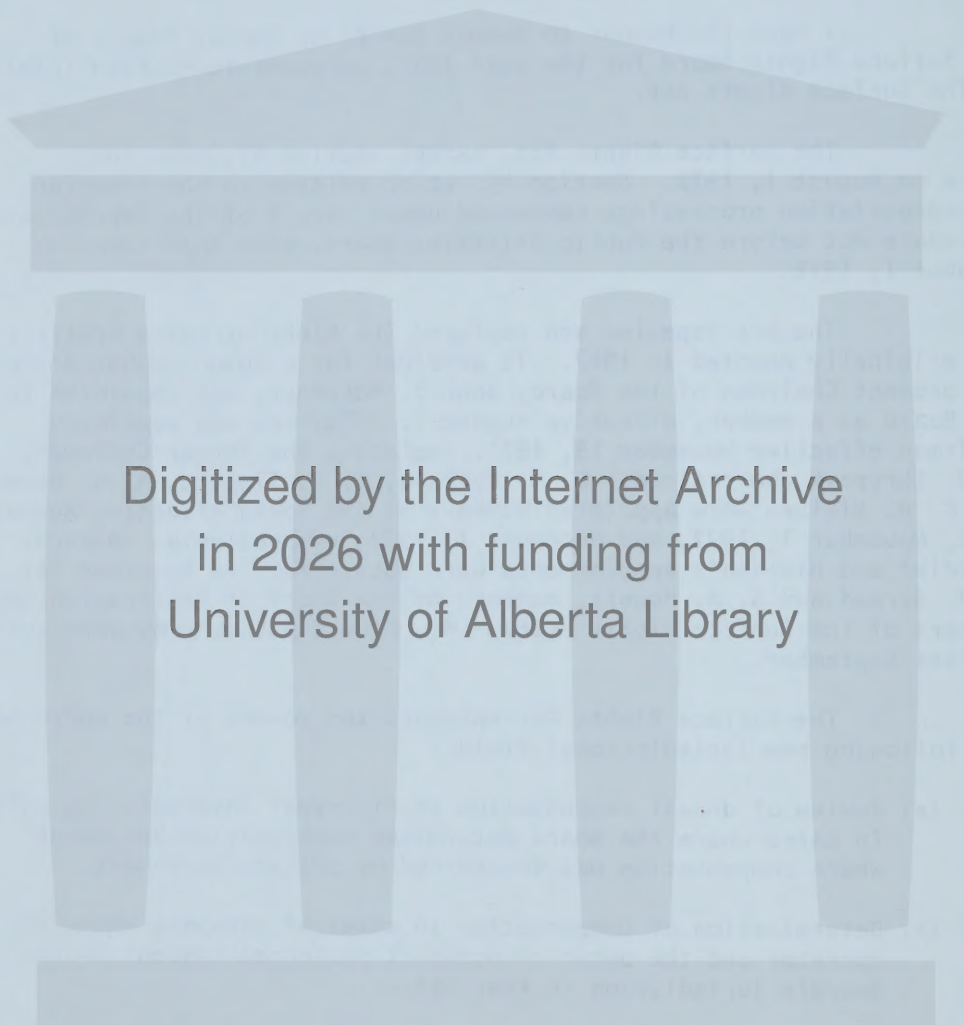
I have the honour to submit the First Annual Report of the Surface Rights Board for the year 1972, pursuant to section 10(a) of The Surface Rights Act.

The Surface Rights Act, except section 45, came into force on August 1, 1972. Section 45, which relates to the transfer of expropriation proceedings commenced under Part 3 of The Expropriation Procedure Act before the Public Utilities Board, came into force on October 1, 1972.

The Act repealed and replaced The Right of Entry Arbitration Act originally enacted in 1947. It provides for a seven member Board. The present Chairman of the Board, John D. McArthur, was appointed to the Board as a member, effective August 1, 1972, and was appointed Chairman effective November 15, 1972, replacing the former Chairman, P. J. Skrypyk who retired. L. P. Pollard, S. C. Tippet, A. W. Benedix and C. H. Nielsen were appointed members of the Board effective August 1, 1972, November 1, 1972, and December 1, 1972, respectively. Messrs. Benedix and Nielsen's appointments were both effective December 1st. K. J. Spread and N. A. Mowatt, members of the Board of Arbitration became members of the Surface Rights Board. Mr. Mowatt passed away very suddenly last September.

The Surface Rights Act extended the powers of the Board to the following new jurisdictional fields:

- (a) Review of annual compensation at five-year intervals not only in cases where the Board determined compensation but cases where compensation was determined by private agreement.
- (b) Determination of compensation in cases of trespass where the operator and the owner or occupant concerned consent to the Board's jurisdiction in that matter.
- (c) Determination of compensation for losses of or injury to livestock and other personal property resulting from the mineral operator's operations irrespective of whether entry on the land was acquired by an order of the Board or private agreement.
- (d) Directions to the Provincial Treasurer to pay compensation out of the General Revenue Fund where a mineral operator has failed to pay such compensation under an order of the Board or private agreement.



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APPLICATIONS

The following is a brief summary of applications dealt with by the Board in 1972:

1. With respect to proceedings under The Surface Rights Act:

(a) There were 163 applications carried over from 1971 consisting of:

153 for right of entry,
1 for termination of right of entry in part, and
9 for termination of right of entry in full.

(b) In 1972 the Board received 448 applications consisting of:

362 for right of entry,
2 for termination of right of entry in part, and
84 for termination of right of entry in full.

(c) In 1972 the Board disposed of 228 applications consisting of:

146 for right of entry,
1 for termination of right of entry in part, and
81 for termination of right of entry in full.

(d) At the end of 1972 there were 383 applications outstanding. These consisted of:

369 for right of entry,
2 for termination of right of entry in part, and
12 for termination of right of entry in full.

Of the 383 applications outstanding, 72 are with respect to Crown lands and 311 with respect to freehold lands.

By comparison the Board received almost twice as many applications under both The Surface Rights Act and formerly The Right of Entry Arbitration Act and The Expropriation Procedure Act in 1972 as it did in the previous year. This would appear to be the result of the farming community having more confidence in the Board.

2. With respect to proceedings under The Expropriation Procedure Act:

There were 120 applications, all with respect to pipe lines, carried over from 1971. During 1972, 219 applications were received; 213 for pipe lines and 6 for power lines. During the year 132 applications were disposed of and at the end of the year 231 applications were outstanding.

Upon section 45 of The Surface Rights Act coming into force on October 1, 1972, a total of seventy-six applications were transferred from The Public Utilities Board to this Board. Of this amount, forty applications were made under The Pipe Line Act and the balance under The Water Resources Act. The Board has already set most of these applications down for hearings in the early part of 1973.

More detailed summaries are given in Statements A to I attached.

ORDERS

In 1972 the Board issued 1,100 orders relative to proceedings under The Surface Rights Act and 272 orders under The Expropriation Procedure Act. As pointed out in a previous report the reason for the much larger volume of orders under The Surface Rights Act is that on an average there are more orders per application under this Act than under The Expropriation Procedure Act because of mergers of oil companies, transfers of mineral rights from one company to another, unitization of oil and gas fields, changes in ownership of the land, et cetera.

The Board is one of a number of Boards and Councils designated as authorities to which The Administrative Procedures Act applies. In a case where the findings of fact and reasons for the decision are relatively short they are embodied in the formal order, and where lengthy, a separate statement of findings and reasons, headed "decision", is given to the parties. There have been 82 such decisions under The Surface Rights Act and 19 under The Expropriation Procedure Act in 1972.

APPEALS

In 1972, there were 5 notices of appeal filed in District Court - 3 under The Surface Rights Act and 2 under The Expropriation Procedure Act. The 3 appeals under The Surface Rights Act were abandoned while the other 2 are still outstanding.

There were 3 appeals from previous years in which judgment of District Court had been appealed to the Appellate Division. Two of these, Alexandra Petroleums v Caswell and Rieger v Atlantic Richfield, were completed in 1972.

More detailed information on the appeals and the outcome thereof is given in Statement J.

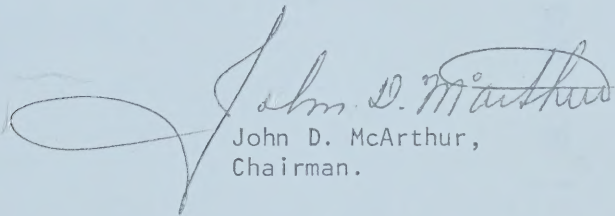
DECENTRALIZATION

As a result of the Government's policy to decentralize Government services, a second office of the Surface Rights Board was established in the John J. Bowlen Building in Calgary. The office was officially opened on November 15, 1972. The Calgary office is handling applications and proceedings relating to all lands situated south of the north boundary of Township 34 with the Edmonton office handling matters in respect of lands situated north of Township 34.

The Chairman devotes about equal time to each office. Messrs. Pollard, Tippet, and Benedix are located in the Calgary office while Messrs. Spread and Nielsen are in the Board's Edmonton office. Although the Board's Secretary and Solicitor are located in the Edmonton office, they will also travel between offices as required. The balance of the staff in each office consists of an Assistant Secretary, a Land Examiner, Clerks and Stenographers.

During the short period of time the Calgary office was open for Business in 1972, it received 21 applications under The Surface Rights Act and 2 under The Expropriation Procedure Act. These applications, although not singled out, are included in the attached Statements. To date, the Calgary office has received numerous telephone calls and written enquiries from landowners in South Alberta requesting information regarding the Acts administered by the Board and its functions. In addition, several farmers have called at the office in person to discuss their problems.

Respectfully submitted,



John D. McArthur,
Chairman.

January 31, 1973.

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR OIL AND GAS
dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received;			
Carried over from previous year	37	111	148
Received during the year	59	302	361
	96	413	509
Applications Disposed of:			
Right of entry granted - compensation determined	29	80	109
Settled independently of Board	-	17	17
Withdrawn - project not proceeded with	1	6	7
Rejected	-	-	-
Termination - no compensation	3	10	13
	33	113	146
Applications Outstanding:	63	300	363

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR RIGHT OF ENTRY FOR COAL dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	1	4	5
Received during the year	Nil	Nil	Nil
	<u>1</u>	<u>4</u>	<u>5</u>
Applications Disposed of:			
Right of entry granted - compensation determined	Nil	Nil	Nil
Settled independently of Board	"	"	"
Withdrawn - project not proceeded with	"	"	"
	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>
Applications Outstanding:	<u>1</u>	<u>4</u>	<u>5</u>

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT ALL APPLICATIONS FOR RIGHT OF ENTRY dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received			
Carried over from previous year	38	115	153
Received during the year	60	302	362
	<u>98</u>	<u>417</u>	<u>515</u>
Applications Disposed of:			
Right of entry granted - compensation determined	29	80	109
Settled independently of Board	-	17	17
Withdrawn - project not proceeded with	1	6	7
Terminated - no compensation	3	10	13
	<u>33</u>	<u>113</u>	<u>146</u>
Applications Outstanding:	<u>65</u>	<u>304</u>	<u>369</u>

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR RIGHT OF ENTRY FOR QUARRYING LEASE dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	Nil	Nil	Nil
Received during the year	1		1
	<u>1</u>	<u>Nil</u>	<u>1</u>
Applications Disposed of:			
Right of entry granted - compensation determined	Nil	Nil	Nil
Settled independently of Board	"	"	"
Withdrawn - project not proceeded with	"	"	"
Rejected	"	"	"
	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>
Applications Outstanding:	1	Nil	1
	<u>1</u>	<u>Nil</u>	<u>1</u>

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR TERMINATION IN PART OF RIGHT OF ENTRY dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	Nil	1	1
Received during the year	2	Nil	2
	<u>2</u>	<u>1</u>	<u>3</u>
	<u>2</u>	<u>1</u>	<u>3</u>
Applications Disposed of:			
Request for termination in part granted	1	Nil	1
Request for termination in part withdrawn	Nil	Nil	Nil
Request for termination in part rejected	Nil	Nil	Nil
	<u>1</u>	<u>Nil</u>	<u>1</u>
	<u>1</u>	<u>1</u>	<u>2</u>
Applications Outstanding:	<u>1</u>	<u>1</u>	<u>2</u>

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR TERMINATION OF RIGHT OF ENTRY IN FULL dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	5	4	9
Received during the year	34	50	84
	—	—	—
	39	54	93
	—	—	—
Applications Disposed of:			
Request for termination granted	33	48	81
Request for termination withdrawn	Nil	Nil	Nil
Request for termination rejected	Nil	Nil	Nil
	—	—	—
	33	48	81
	—	—	—
Applications Outstanding:	<u>6</u>	<u>6</u>	<u>12</u>

SURFACE RIGHTS BOARD

THE EXPROPRIATION PROCEDURE ACT

SUMMARY OF APPLICATIONS FOR EXPROPRIATION FOR PIPE LINES
dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	7	113	120
Received during the year	8	205	213
	<u>15</u>	<u>318</u>	<u>333</u>
Applications Disposed of:			
Expropriation granted - compensation determined	4	30	34
Settled independently of Board	2	72	74
Withdrawn	1	20	21
	<u>7</u>	<u>122</u>	<u>129</u>
Applications Outstanding:	8	196	204
	<u>8</u>	<u>196</u>	<u>204</u>

SURFACE RIGHTS BOARD

THE EXPROPRIATION PROCEDURE ACT

SUMMARY OF APPLICATIONS FOR EXPROPRIATION FOR POWER LINES dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year		24	24
Received during the year	<u> </u>	<u>6</u>	<u>6</u>
	NIL	30	30
	<u> </u>	<u> </u>	<u> </u>
Applications Disposed of:			
Expropriation granted - compensation determined Settled independently of Board		3	3
	<u> </u>	<u>3</u>	<u>3</u>
	NIL	3	3
	<u> </u>	<u> </u>	<u> </u>
Applications Outstanding:	NIL	27	27
	<u> </u>	<u> </u>	<u> </u>

SURFACE RIGHTS BOARD

THE EXPROPRIATION PROCEDURE ACT
SUMMARY OF ALL APPLICATIONS FOR EXPROPRIATION
dealt with in 1972

	<u>Crown Lands</u>	<u>Private Lands</u>	<u>Total</u>
Applications Received:			
Carried over from previous year	7	137	144
Received during the year	8	211	219
	15	348	363
Applications Disposed of:			
Expropriation granted - compensation determined	4	30	34
Settled independently of Board	2	75	77
Withdrawn	1	20	21
	7	125	132
Applications Outstanding:	<u>8</u>	<u>223</u>	<u>231</u>

- 1 -

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER
THE SURFACE RIGHTS ACT

NOTICES OF APPEALS FILED

<u>Year</u>	<u>By Companies</u>	<u>By Landowners or Occupants</u>	<u>Total</u>
1967	4	2	6
1968	-	7	7
1969	1	5	6
1970	-	-	-
1971	1	3	4
1972	1	4	5
	<u>7</u>	<u>21</u>	<u>28</u>

DISPOSITION OF APPEALS

Appeals completed:

by District Court	6	
by Supreme Court of Canada	1	
	<u>7</u>	

Judgments of District Court

appealed to Appellate Division and not yet dealt with	1
--	---

Settled out of Court	3
Abandoned	14
Outstanding	3
	<u>28</u>

PARTICULARS OF THE OUTCOME OF APPEALS DEALT WITH BY THE COURTS IN 1972

APPEALS COMPLETED:

(1) ALEXANDRA PETROLEUMS v CASWELL - appeal by company

(a) Decision of the Board

- compensation \$1,535.00 first year
454.00 per year thereafter

(b) Decision of the District Court (Judge Belzil)

- compensation \$ 627.00 for first year
277.00 per year thereafter

(c) Decision of Appellate Division (Smith, C.J.A., Allen, J.A. and
Sinclair, J.A.)

Order No. 2849/70 (Compensation Order) was restored subject to the following variations:

- a) Compensation for the first year was reduced from \$ 1,989.00 to \$ 1,770.00,
- b) Compensation for subsequent years was reduced from \$ 454.00 to \$ 377.00

RIEGER v ATLANTIC RICHFIELD - appeal by landowner

(a) Decision of the Board

- compensation \$ 650.00 first year
155.00 per year thereafter

(b) Decision of District Court (Chief Judge Turcotte)

- compensation \$ 719.00 for first year
291.40 per year thereafter

(c) Order of the Board restored.

- 3 -

APPEAL IN WHICH JUDGMENT OF DISTRICT COURT HAS BEEN APPEALED TO
APPELLATE DIVISION BUT NOT YET DEALT WITH:

BUCHTA v FOX COULEE COALS - appeal by landowner

strip coal mining operation - 1.72 acres

(a) Decision of the Board

- compensation - \$ 154.00 for first year
94.00 per year thereafter

(b) Decision of District Court (Judge Rowbotham)

- compensation \$ 444.00 for first year
186.00 per year thereafter

